IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 10994 of 2006

Date of Decision: 13.11.2006

Mandeep Singh and others. ..Petitioners

Versus

State of Punjab and others. ..Respondents

CORAM : Hon'ble Mr. Justice J.S. Khehar,
Hon'ble Mr. Justice S.D. Anand.

Present : Mr. Rajiv Atma Ram, Senior Advocate,
with Mr. Sunil Nehra, Advocate,
for the petitioners.

Mr. Ashok Aggarwal, Additional Advocate General, Punjab,
with Mr. B.S. Chahal, Assistant Advocate General, Punjab,
for respondent Nos. 1 and 2.

Mr. Ginder Singh, Advocate,
for respondent Nos. 3 & 4.

Mr. Arun Jindal, Advocate,
for respondent Nos. 5 and 6.

Ms. Amarjit Kaur Khurana, Advocate,
for respondent Nos. 7 and 8.

Mr. Balbir Singh, Advocate,
for respondent Nos. 9 and 10.

Mr. Sukhinder Singh, Advocate,
for respondent Nos. 11 and 12.

J.S. Khehar, J. (Oral)

The petitioners in the instant writ petition challenge the process of selection/appointment/posting adopted by the authorities for the posts of ETT Teachers, by asserting, that the same are in violation of Rule 11 of the Punjab Panchayati Raj Primary Teachers (Recruitment and Conditions of Service) Rules, 2006. Rule 11 noticed herein above is being extracted

hereunder:

"11. Criteria for appointments and transfer:- (1) Appointment to the Service, shall be made school-wise from amongst the eligible candidates from the areas in the following order, namely:-

(a) village in which the school is situated;

(b) adjoining villages and towns;

(c) block and towns contiguous with block;

(d) adjoining block and contiguous towns; and

(e) district.

(2) No appointment shall be made from outside the district. No transfer shall be made, except in the following circumstances, namely:-

(a) on promotion against vacancy within district;

(b) in case of marriage, against vacancy; and

(c) within the block, in case sanctioned teacher strength in the school is revised as per the norm of Government.

(3) The merit will be prepared by adding the percentage of marks obtained in 10+2 Examination or its equivalent and in E.T.T. In case of non-available of eligible E.T.T. candidates, the candidates;

Example: A candidate having 62% in 10+2 Examination and 72% in E.T.T. will have 62+72=134 scores. No other marks shall be given for any other qualifications or activities. In case of equal marks, older in age, shall be placed higher in merit. To be eligible, a candidate must have a minimum score of 100, as

per the above criteria. In the same way, separate merit shall be prepared for B.A./B.Sc./B.Com and B.Ed. candidates by adding the percentage of marks obtained in B.A./B.Sc./B.Com. and B.Ed. A joint merit, applying the same criteria will be prepared for the purposes of seniority."

It is apparent that the controversy raised in the instant writ petition is primarily factual. A detailed written statement on behalf of the State Government has been filed, wherein, the steps adopted for selection, appointment and posting have been delineated. The same are being extracted hereunder :

"a) STEP 1 : The category-wise seats shall be calculated for each Block and the District as a whole. The software then selects the most meritorious applicants (irrespective of category) equal in number to the total number of vacancies in the General Category. These applicants are then treated as General category applicants for all further iterations. Out of the remaining applicants the software selects the most meritorious applicants in each category equal in number to the seats available in the district against that category. Such applicants shall be treated as applicants of the category for all further iterations. The remaining lower-merit applicants in each category are ignored for all further iterations. The short-listed meritorious applicants in each category are hereinafter referred to as "candidates". Thus the candidates shall be equal to or less than the number of vacancies in the District. It is pertinent to mention here that this step was dispensed with in the selection of ETT applicants as it

had been decided that all ETT applicants shall be selected because their number in each District was much less than the total number of vacancies in the District. It was, however, implemented for B.Ed. applicants.

b) STEP II: The candidates of the entire District shall be arranged meritorious (irrespective of category). Starting from the most meritorious candidate the software shall scan all the candidates and a candidate shall be allotted his home village in case a vacancy exists there. This is, however, subject to the total number of seats in each category available in that Block. In case the seats of a particular Category (say General) is exhausted then no further candidate of that category shall be allotted a seat even if a vacancy exists in the home village of that candidate.

After each allotment the software decrements a vacancy in that Category. In case more than one candidate is available for allocation to the home village the candidate with higher merit (irrespective of Category but subject to Reservation constraints) shall be appointed.

c) STEP III: After Step II the remaining candidates shall again be arranged merit-wise (irrespective of category) and shall be allotted (merit-wise) an adjoining village in case a vacancy exists there. Adjoining village means a village whose revenue boundary touches the home village/town of the candidate. In case vacancy exists in more than one adjoining village of a candidate then the adjoining village shall be selected

alphabetically (“a” first and “z” last).

This is, however, subject to the total number of seats in each Category available in that Block. In case the seats of a particular Category (say General) is exhausted in the Block then no further candidate of that category shall be allotted a seat even if a vacancy exists in the adjoining village of that candidate.

After each allotment the software decrements a vacancy in that Category. In case more than one candidates is available for allocation to the adjoining village then the candidate with higher merit (irrespective of category but subject to Reservation constrains) shall be appointed in that village.

d) STEP IV: After Step III the remaining candidates shall again be arranged merit-wise (irrespective of category) and shall be allotted a village in their Block (the Block in which their home village falls or the Block/Blocks which touch their towns). This is, of course, subject to the availability of a vacancy of that category in the Block. In case a vacancy exists in more than one village in the Block then the village shall be selected alphabetically (`a' first and “z” last).

This is, however, subject to the total number of seats of that category available in that Block. In case the seats of a particular Category (say General) is exhausted in the Block then no further candidate of that category shall be allotted a seat even if a vacancy exists in the Block.

After each allotment the software decrements a vacancy

in that Category. In case more than one candidate is available for allocation to the adjoining village then the candidate with higher merit (irrespective of category but subject to Reservation constrains) shall be appointed in that village. It is pertinent to mention here that the rules nowhere specify that while making the allotment in a Block the village nearest to the candidate's home village should be allotted. The candidate can be allotted any village in the Block. It is only to introduce uniformity that the alphabetical allocation of villages has been introduced.

e) STEP V: After Step IV the remaining candidates shall again be arranged merit-wise (irrespective of Category) and shall be allotted a village in the adjoining Block (A Block whose boundary touches the Block of the candidate) in case a vacancy exists there. In case vacancies of that Category exist in more than one adjoining block, then the Block is selected alphabetically (“a” first and “z” last). After the adjoining Block has been selected and a vacancy exists in more than one village in that adjoining Block then the village shall be selected alphabetically (“a” first and “z” last).

It is pertinent to mention here that the rules nowhere specify that while making the allotment in an adjoining Block, the Block nearest to the candidate's home village should be allotted. The candidate can be allotted any adjoining block. It is only to introduce uniformity that the alphabetical allocation of adjoining Blocks, and then villages in that Block, has been

introduced.

f) STEP VI: After Step V the remaining candidates shall again be arranged merit-wise and shall be allotted (merit-wise) a village in the District. In case vacancy exists is more than one village in the District then the village shall be selected alphabetically ("a" first and "z" last). It is pertinent to mention here that the Rules specify that at this stage the candidate shall be allotted a village in the District. They nowhere specify that the village nearest to the candidate's home village/ town shall be allotted. It is only to introduce uniformity that the alphabetical allocation of villages in the District has been introduced.

g) Step (b) to (f) shall first be followed in case of ETT candidates. In the event of vacancies left in a particular category the step (a) to (f) shall be followed for B.Ed. Candidates and the vacancies filled by B.Ed. Candidates of the appropriate category.

h) In case of the number of ETT candidates in a Category is greater than the vacancies available in that category, then an appropriate number of seats shall be de-reserved so as to ensure that all eligible ETT applicants are appointed."

Having perused the determination at the hands of the respondents for implementing Rule 11 of the 2006 Rules, we are satisfied that the same is in conformity therewith.

Since, the instant controversy is primarily factual, as noticed herein above, rather than examining each individual case (there being a large number of writ petitions assailing the action of the respondents on similar

grounds), to determine whether there are any factual irregularities in the determination at the hands of the respondents in the implementation of Rule 11 of the 2006 Rules, we are satisfied that the ends of justice will be met if we require the Director, Rural Development and Panchayats, Punjab, to examine the facts of each of the petitioners on the basis of the issues raised, keeping in mind, the steps delineated in the written statement, which have been extracted herein above. In case there has been any mistake, corrective measures be taken, and, in case, the appointments have been made in terms of Rule 11 of the 2006 Rules, a detailed speaking order will be communicated to each of the petitioners. Corrective steps be taken only after the affected persons (if any) are afforded an opportunity of hearing. This process be completed within six months from today.

During the course of hearing of the instant writ petition, it emerged, that appointments under Rule 11 of the 2006 Rules, were to be made in response to the advertisement dated 26.05.2006. It needs to be clarified, that those selected against the advertised vacancies are to be appointed in Zila Parishad Schools, under the Department of Rural Development and Panchayats. There are, however, additional posts of ETT teachers under the Department of Education. The State Government through a notification dated 24.3.2006 (Annexure P/3) decided to continue with such teachers who were earlier employed under the Sarv Shiksha Abhiyan Authority as ETT teachers in schools under the Department of Education. It is, therefore, apparent that the aforestated two categories of ETT teachers will have to be dealt with separately. Those claiming appointment in furtherance of the advertisement dated 26.5.2006, to schools under the Department of Rural Development and Panchayats, will be regulated by Rule

11 of the 2006 Rules; and those seeking continuation of their earlier appointment under the Sarv Shiksha Abhiyan Authority, in schools under the Department of Education, will be regulated by the notification dated 24.3.2006. This factual and legal position stands acknowledged by the learned counsel for respondent Nos. 1 and 2. The claim of the petitioners seeking appointment in schools under the Department of Education, shall therefore, not be regulated in terms of Rule 11 of the 2006 Rules, but only in terms of the notification dated 24.3.2006.

Status quo as it exists today shall continue for a period of two weeks after the speaking order has been passed dealing with the issues canvassed by each of the petitioners. This would enable the unsatisfied petitioners to seek redressal of their grievances, if they are so advised, before they are subjected to any adverse action. Disposed of accordingly.

Order dasti on payment of usual charges.

(J.S. Khehar)
Judge

November 13, 2006
vkd

(S.D. Anand)
Judge